

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

RICHARD STARKS, #1008105	§	
VS.	§	CIVIL ACTION NO. 6:05cv227
DIRECTOR, TDCJ-CID	§	

ORDER OF DISMISSAL

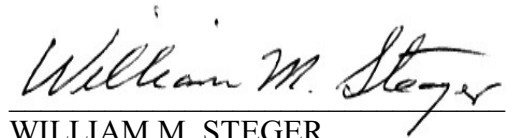
The above-entitled and numbered civil action was heretofore referred to United States Magistrate Judge Judith K. Guthrie, who issued a Report and Recommendation concluding that the petition for a writ of habeas corpus should be denied. The Petitioner has filed objections.

The Report of the Magistrate Judge, which contains her proposed findings of fact and recommendations for the disposition of such action, has been presented for consideration, and having made a *de novo* review of the objections raised by the Petitioner to the Report, the Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct and the objections of the Petitioner are without merit.

The Court notes that the Petitioner was convicted after a plea of guilty to the offense of Sexual Assault on July 11, 2000. He did not appeal, and the conviction became final. The Report and Recommendation correctly noted that the deadline for the present petition to be filed was August 10, 2001. It was not filed until almost four years later on June 6, 2005. His petition and objections focused on a state court order issued on June 25, 2003. The state court order discussed state house-keeping procedures for preserving DNA evidence and the Petitioner's failure to follow procedures for preserving his DNA. The Petitioner has not shown that he is entitled to federal habeas corpus relief due to any of these events, particularly since the present petition was time-barred long before the DNA evidence in question was destroyed. Therefore the Court hereby adopts the findings and conclusions of the Magistrate Judge as the findings and conclusions of the Court. It is accordingly

ORDERED that the petition for a writ of habeas corpus is **DENIED** and the case is **DISMISSED** with prejudice. All motions by either party not previously ruled on are hereby **DENIED**.

SIGNED this 12th day of August, 2005.

A handwritten signature in cursive script, reading "William M. Steger", written in black ink. The signature is positioned above a horizontal line.

WILLIAM M. STEGER
UNITED STATES DISTRICT JUDGE